

Office Action Summary

Application No.

09/544,665

Applicant(s)

CINES ET AL.

Examiner

Anish Gupta

Art Unit

1654

-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 11-16 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) 11-16 and 21-24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 5) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 6) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

The amendment filed, 4-29-03, is acknowledged. Claims 5-10, 17-19 were canceled and claim 1 was amended. Claims 1-4, 11-16 and 21-24 are pending in this application.

1. Claims 11-16 and 20-24 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Groups II-V, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 10. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144). See MPEP § 821.01.

Withdrawn Rejections

Claim Rejections - 35 USC § 112

2. The rejection of claims 5-7 rejected under 35 U.S.C. 112; second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for the reasons set forth in the previous office action and the reasons set forth below is hereby withdrawn.

3. The rejection of claims 5-10 and 17-19 rejected under 35 U.S.C. 112, first paragraph is hereby withdrawn.

4. The rejection of Claims 7, 9, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pannekoek is hereby withdrawn in view of the canceled claims.

Maintained Rejection

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 remains rejected under 35 U.S.C. 102(b) as being anticipated by Pannekoek for the reasons set forth in the previous office action and the reasons set forth below.

The claims are drawn to a peptide comprising the sequence EEIIMD and methods of using said peptides.

Applicants argue that Applicants have amended the claims to contain the language “consisting of” rather than “having.” Thus, the reference does not teach every element of the claim.

Applicant's arguments filed 4-29-03 have been fully considered but they are not persuasive.

As stated in the previous office action, on page 5 of the reference, PAI-1 is defined to of the sequence SGTVASSSTAVIVSARMAPEEIIMD (see page 5, lines 23-27). The instant claims state that X1 is a hydrogen, amino terminal blocking group, or **one to twenty amino acid residues**. The reference still anticipates the claims since X1 is a **19 amino acid sequence** SGTVASSSTAVIVSARMAP, X2 is E, X3 is E, X4 is I, X5 is I, X6 is M, X7 is D and X8 is H, by the virtue of a carboxyl terminus. The reference teaches every element of the claimed invention. The mere fact that the claims have been amended to “consisting of” does not alter the definition of the X variables in the claim.

The rejection is maintained.

6. Claims 2-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


7. Claim 20 is allowed.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Gupta whose telephone number is (703) 308-4001. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback, can normally be reached on (703)306-3220. The fax phone number of this group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.


Anish Gupta


BRENDA BRUMBACK
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/544,665	04/06/2000	Douglas Cines	9596-67U1	9220

28977 7590 07/15/2003

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EXAMINER

GUPTA, ANISH

ART UNIT	PAPER NUMBER
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1654

DATE MAILED: 07/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.